

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 15-20564

v.

Honorable Nancy G. Edmunds

DESMOND CHARLES MINETEE (D-2),

Defendant.

_____ /

**ORDER DENYING DEFENDANT'S
MOTION FOR COMPASSIONATE RELEASE [133]**

Defendant Desmond Charles Minetee is currently in the custody of the Federal Bureau of Prisons ("BOP") at the United States Penitentiary in Thomson, Illinois. The matter is before the Court on Defendant's pro se motion for compassionate release. (ECF No. 133.) The government opposes Defendant's motion. (ECF No. 135.) The Court has reviewed the record in its entirety and finds that a hearing is not necessary. For the reasons set forth below, the Court DENIES Defendant's motion without prejudice.

I. Background

On February 1, 2016, Defendant pleaded guilty to using, brandishing, and discharging a firearm during and in relation to a crime of violence in violation of 18 U.S.C. § 924(c). (ECF No. 52.) The Court imposed a sentence of 84 months of imprisonment and entered judgment on June 16, 2016. (ECF No. 89.) Defendant's projected release date is March 9, 2022. Defendant now moves for his release due to the health concerns associated with the COVID-19 pandemic. He states he has had

trouble breathing in the past and argues it is difficult to practice proper hygiene while incarcerated at his facility.

II. Analysis

Under 18 U.S.C. § 3582(c)(1)(A), a defendant may move to modify his term of imprisonment “after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant’s behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant’s facility, whichever is earlier” The Sixth Circuit has held that his exhaustion requirement is mandatory and “must be enforced” when “properly invoked.” *See United States v. Alam*, 960 F.3d 831, 834 (6th Cir. 2020) (internal quotation marks and citation omitted).

Here, Defendant has not presented any evidence that shows he submitted an administrative request for release. Nor does he claim to have done so. And the government notes that the BOP has no record of the receipt of a request for compassionate release from Defendant. Because the government has objected to Defendant’s failure to satisfy the exhaustion requirement, his motion for compassionate release is denied without prejudice. *See Alam*, 960 F.3d at 836.

III. Conclusion

Based upon the foregoing, Defendant’s motion is DENIED without prejudice.

SO ORDERED.

s/Nancy G. Edmunds
Nancy G. Edmunds
United States District Judge

Dated: January 13, 2021

I hereby certify that a copy of the foregoing document was served upon counsel of record on January 13, 2021, by electronic and/or ordinary mail.

s/Lisa Bartlett
Case Manager